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5 Attorneys for Plaintiff Gregory A. Strasburg,
Individually and as Trustee of the Gregory A. Strasburg Revocable Trust dated 4/8/2003

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

10 GREGORY A. STRASBURG, Individually
11 and as Trustee of the GREGORY A.
12 STRASBURG REVOCABLE TRUST dated
13 4/8/2003
14 Plaintiff,
15 v.
16 *M/Y JUST A NOTION*, Official Number
17 1089525, her engines, tackle, furniture and
18 appurtenances, *in rem*; PETER BLAIR, *in
19 personam*; JIM SINGLETON, *in personam*;
20 and THE YACHT CLUB, LLC., a Nevada
21 Corporation
22 Defendants.
23) CASE NO. 08CV21 JLS (BLM)
24)
25)
26)
27) IN ADMIRALTY
28)
29) EX PARTE APPLICATION FOR AN
30) ORDER APPOINTING NEW
31) SUBSTITUTE CUSTODIAN AND
32) AUTHORIZING MOVEMENT OF
33) DEFENDANT VESSEL;
34) [PROPOSED] ORDER
35)
36)
37) Federal Rules of Civil Procedure
38) Supplemental Rules for Certain
39) Admiralty and Maritime Claims,
40) Rules C and D

20 Plaintiff GREGORY A. STRASBURG, individually and as Trustee of the GREGORY A.
21 STRASBURG REVOCABLE TRUST dated 4/8/03 (hereinafter referred to as “PLAINTIFF”) by
22 and through his attorney of record, James W. Alcantara, Esq. of Alcantara & Associates, APC.,
23 hereby applies to this Court and respectfully requests *ex parte* an Order appointing a new substitute
24 custodian and authorizing movement of Defendant vessel, *M/Y JUST A NOTION* (hereinafter
25 referred to as “DEFENDANT VESSEL”) As set forth herein, good cause exists for such relief as
26 requested.

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2 **FACTUAL BACKGROUND OF CASE**

3 On or about January 3, 2008, the Complaint file herein was filed praying that the
 4 DEFENDANT VESSEL and her engines, tackle, apparel, furnishings, equipment, accessories,
 5 appurtenances, etc., and all other necessaries thereunto appertaining and belonging, be arrested and
 6 ordered into the custody of the Substitute Custodian – Driscoll's Wharf. The United States Marshal
 7 did arrest the DEFENDANT VESSEL on January 9, 2008, and thereafter released DEFENDANT
 8 VESSEL to the substitute custodian Driscoll's Wharf pursuant to the Order Appointing Substitute
 9 Custodian and for Authorization for Movement of Defendant Vessel filed on January 7, 2008.

10 **BASES FOR REQUESTED RELIEF**

11 The DEFENDANT VESSEL currently is situated in a slip located at Driscoll's Wharf.
 12 After careful consideration, PLAINTIFF has determined it is in the best interest of all parties that
 13 the DEFENDANT VESSEL be moved to a marina that provides what is perceived to be better
 14 security and better available maintenance facilities. PLAINTIFF will have the DEFENDANT
 15 VESSEL moved by a licensed captain who is fully insured and authorized to operate the
 16 DEFENDANT VESSEL from Driscoll's Wharf to the new marina located in the same San Diego
 17 harbor area.

18 **RELIEF REQUESTED**

19 PLAINTIFF seeks an Order from this Court approving Nielsen Beaumont Marine, Inc.
 20 (hereinafter referred to as "Nielsen Beaumont") to act as the new Substitute Custodian of the
 21 DEFENDANT VESSEL. Nielsen Beaumont has agreed to assume the responsibility for
 22 safekeeping of the said DEFENDANT VESSEL and has consented to act as her Substitute
 23 Custodian until further order of this Court. It will provide, as necessary under the circumstances,
 24 the following services for the safekeeping of the DEFENDANT VESSEL, at a cost not to exceed
 25 the prevailing rates for substitute custodian services in the Port of San Diego, as described with
 26 further particularity in the Declaration of Don Beaumont, President of Nielsen Beaumont.

27 (a) Assume custody of the vessel from Driscoll's Wharf and keep her in a

1 secure slip at Nielsen Beaumont, until further order of the Court;

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3 (b) As soon as possible after assuming custody of the vessel, photograph and/or
4 videotape the interior and exterior of the vessel;

5 (c) Periodically inspect mooring lines/fenders to assure safe and secure
6 mooring;

7 (d) Periodically as deemed prudent under the existing circumstances, but no less
8 than weekly, supervise a weekly inspection to ensure the vessel's watertight integrity and to check
9 for any excessive bilge water and fuel lubricant leaks. Also, ensure the vessel is washed and kept
10 in the condition she was in at the time of her arrest. Where further action beyond those detailed
11 herein is deemed necessary to preserve the vessel, Nielsen Beaumont shall advise counsel, so
12 counsel can seek an appropriate Order from the Court;

13 (e) Provide at the usual and customary rates prevailing in the port additional
14 services such as cleaning, minor maintenance, inspection of bottom by a diver for the purpose of
15 cleaning and reporting findings regarding underwater hull, metal and zinc conditions, as such
16 services are deemed prudent.

17 (f) Nielsen Beaumont will operate only machinery described in a proper Court
18 Order.

19 (g) Provide other such services as may be required from time-to-time, by further
20 Order of the Court.

21 Nielsen Beaumont, in consideration of the Court's consent to the substitution of custodian,
22 agrees to release the United States and the Marshal and Driscoll's Wharf from any and all liability
23 and responsibility arising out of the case and custody of the DEFENDANT VESSEL, her engines,
24 boilers, tackle, apparel, furnishings, appurtenances, etc., and all other necessaries thereunto
25 appertaining and belonging, from the time Driscoll's Wharf transfers possession of said vessel over
26 to said substitute custodian, and further agrees to hold harmless and indemnify the United States
27 and the Marshal from any and all claims whatsoever arising out of the substitute custodian's
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1 possession and safekeeping.

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4 **CONCLUSION**

5 For all the reasons set forth above, PLAINTIFF respectfully requests this *ex parte*
6 application be granted.

7 **PRAYER**

8 WHEREFORE, Plaintiff respectfully requests this Court issue an Order:

9 1. Ordering that Driscoll's Wharf, as substitute custodian of is hereby, authorized and
10 directed to release DEFENDANT VESSEL, her tackle, apparel, furnishings, appurtenances, etc.,
11 and all other necessaries thereunto appertaining and belonging, to the new Substitute Custodian
12 named herein, and that upon such surrender Driscoll's Wharf shall be discharged from its duties
13 and responsibilities for the safekeeping of said vessel and held harmless from and against any and
14 all claims whatever arising out of said substituted possession and safekeeping.

15 2. Ordering that NIELSEN BEAUMONT be, and is hereby appointed, the Substitute
16 Custodian of said vessel, to retain her in its custody for possession and safekeeping, with the
17 authority to move the DEFENDANT VESSEL to any suitable and safe place from Driscoll's
18 Wharf to a suitable slip within its marina, for the aforementioned compensation and in accordance
19 with the Declaration of Don Beaumont and the recitals herein contained until further order of this
20 Court.

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22 ALCANTARA & ASSOCIATES, APC

23
24 Dated: February 1, 2008

s/ James W. Alcantara

James W. Alcantara, Esq.
Attorneys for Plaintiff
GREGORY STRASBURG